

**NIRO, SCAVONE, HALLER & NIRO**

RAYMOND P. NIRO  
TIMOTHY J. HALLER  
WILLIAM L. NIRO  
JOSEPH N. HOSTENY, III  
ROBERT A. VITALE, JR.  
JOHN C. JANKA  
PAUL K. VICKREY  
DEAN D. NIRO  
RAYMOND P. NIRO, JR.  
PATRICK F. SOLON  
ARTHUR A. GASEY  
CHRISTOPHER J. LEE  
DAVID J. SHEIKH  
VASILIOS D. DOSSAS  
SALLY WIGGINS  
RICHARD B. MEGLEY, JR.  
MATTHEW G. McANDREWS

181 WEST MADISON STREET-SUITE 4600  
CHICAGO, ILLINOIS 60602-4635

TELEPHONE (312) 236-0733

FACSIMILE (312) 236-3137

April 17, 2008

LEE F. GROSSMAN  
PAUL C. GIBBONS  
BRADY J. FULTON  
GREGORY P. CASIMER  
DOUGLAS M. HALL  
DINA M. HAYES  
FREDERICK C. LANEY  
DAVID J. MAHALEK  
KARA L. SZPONDOWSKI  
ROBERT A. CONLEY  
ERIC J. MERSMANN  
NICHOLAS M. DUDZIAK  
KAREN L. BLOUIN  
LAURA A. KENNEALLY  
TAHITI ARSULOWICZ  
OF COUNSEL  
THOMAS G. SCAVONE

**Via Facsimile: (612-664-5897)**

The Honorable Joan N. Ericksen  
United States District Court  
12W U.S. Courthouse  
300 South Fourth Street  
Minneapolis, MN 55415

Re: Timebase v. Thomson; Case Nos. 07CV1687 and 07CV4551

Dear Judge Ericksen:

This addresses Mr. Gross's letter of April 1 to the Court about the reexamination of the '592 patent. The office action should not alter the analysis leading to Magistrate Judge Graham's decision to deny a stay in the 4551 case (about the '228 patent) and lift the stay in the 1687 case (about the '592 patent, now in reexamination).

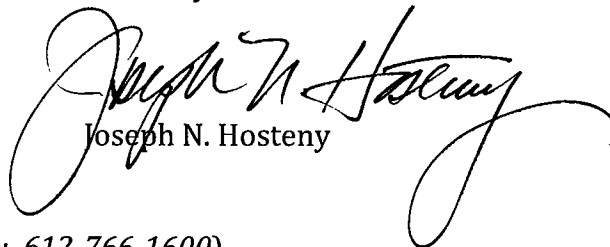
Magistrate Judge Graham's orders concerning the stay of this litigation contemplated that the Patent Office would issue an office action in the '592 reexamination. Thus, the orders were not predicated on the absence of action by the PTO. Instead, she assumed the Patent Office would issue some action, but decided that there was insufficient reason to continue the stay because it was "too slim a reed" to assume that TimeBase would make a statement affecting the claims of the '228 patent. The orders were not predicated upon the content of any office action, either. Rather, Judge Graham leaned toward Thomson's point of view; the only way TimeBase would be responding, and saying anything at all, was if the Patent Office had first rejected the claims.

The reexamination was initiated with three references, and arguments made in the European Patent Office. But the office action provided with Mr. Gross's letter rejects claims even based upon only one reference, an article. Thus, the scope of the '592 reexamination is narrower than was the case when Judge Graham made her decision.

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The office action has no bearing on the '228 patent. The references cited in the reexamination request have been considered by the examiner of the '228 patent. Nor does the office action alter the analysis of prejudice or efficiency in conducting these cases.

Sincerely,



Joseph N. Hosteny

JNH:sb

cc: David J.F. Gross (*via facsimile: 612-766-1600*)